

Regular Criminal Case No. 65/2014
(State Vs. Sunil Gaikwad etc.5)

ORDER BELOW EXH.34

Perused application and say of A.P.P. Heard Ld. Counsel for accused No.2 and A.P.P. Gone through the whole record carefully.

2. In short, it is the contention of accused No.2 in this case that, in F.I.R. it is not mentioned that which order under Section 3 of the Essential Commodities Act, 1955(hereinafter in short called as “the Act”) has been breached. Name of accused No.2 is not mentioned in F.I.R. No Act is attributed to accused No.2. There is no complaint of ration-card holders against accused No.2. There is no concrete evidence against accused No.2 in this case. Accused No.2 prayed to discharge him out of the offences levelled against him in this case.

3. Ld. A.P.P. filed his say and contended in it that, the contentions in this application are baseless. After thorough investigation police has filed chargesheet in this crime. Accused No.2 has misappropriated the rationing which was allotted to poor people. There is sufficient material to frame charge. He prayed to reject the application.

4. Ld. Counsel for accused relied upon **Dhanraj s/o. Anandrao Mohod & Anr. vs. The State of Maharashtra & Anr.(2016 ALL MR (Cri) 2208)**. In this ruling it is held that, in order to bring Section 7 of the Act into application, essential requirement is violation of order made in Section 3 of the Act. On perusal of record it is seen that no order as envisaged under Section 3 of the Act is placed on record by police.

Under such circumstances the offence under Section 7 of the Act do not attract against the accused. As far as other offences levelled against accused No.2 is concerned, in some of the statements of witnesses before police it is mentioned that they came to know that the accused No.2 sold 11 sacks of rationing, each of 50 Kg., to Sunil Gaikwad. So there is prima facie offence against accused under Section 406, 409, 420 r.w. 34 of I.P.C. In view of above reasons and discussion I proceed to pass following order:

: ORDER:

1. The application is partly allowed.
2. Accused No.2 Appa Ananda Mane, Age-57, R/o. Kole, Tal. Sangola, Dist. Solapur is hereby discharged out of the offence punishable under Section 7 of the Essential Commodities Act, 1955.
3. The other reliefs sought by accused No.2 in this application is hereby rejected.
4. No order as to costs.

Sangli.
Date: 13.11.2018.

Sd/-
(L.D. Huli.)
Chief Judicial Magistrate,Sangli.